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CIRCUIT COURT FOR FREDERICK COUNTY

City/County

☒ , MARYLAND

Located at 100 WEST PATRICK STREET

Court Address

Case No. C10CR21000535

STATE OF MARYLAND

Plaintiff

100 WEST PATRICK STREET

Address

FREDERICK MARYLAND 21701

City, State, Zip

N/A

Telephone Number

vs.

NORRIS B. ELLIS

Defendant

7300 MARCIES CHOICE LANE

Address

FREDERICK MARYLAND 21701

City, State, Zip

N/A

Telephone Number

MOTION
(Md. Rule 2-311)

MDEC counties only: If this submission contains Restricted Information (confidential by statute, rule or court order) you must file a Notice Regarding Restricted Information Pursuant to Rule 20-201.1 (form MDJ-008) with this submission, and check the Restricted Information box on this form.

I, Norris B. Ellis, ☐ plaintiff ☒ defendant, move that the court grant the

Name

following request in the above-referenced matter:

MOTION TO DISMISS, pursuant to Maryland Rule 2-322 of
Maryland Rule of Civil procedure in the Circuit Court and under
Rule 12(b) and 12(b)(2): PRETRIAL MOTIONS IN CRIMINAL PROSECUT-
IONS, and any and all other APPLICABLE RULE TO THE MATTER HEREIN.

(Continue to page two (2) if in need of additional writing space.)

Currently scheduled ☐ hearing ☐ trial date and time: _____

☒ Grounds and authorities: Pursuant to Maryland Rule 2-322
☒ Request for hearing.

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Date
FCADC 7300 Marcies Choice Lane
Address
Fredrick Maryland 21701
City, State, Zip
N/A
E-mail

Norris B. Ellis
Signature of Party
Norris B. Ellis
Printed Name
N/A
Telephone Number
N/A
Fax

Certificate of Service

I certify that I served a copy of this motion upon the following party or parties by ☐ mailing first class mail, postage prepaid, ☐ hand delivery, on _____ to:

Tammy Leache, STATES ATTORNEY
Name

CLERK OF CIRCUIT COURT
Name

September 12, 2022
Date

Date
100 W. Patrick, Street
Address
Fredrick Maryland 21701
City, State, Zip
100 W. Patrick Street
Address
Fredrick Maryland 21701
City, State, Zip
Norris B. Ellis
Signature of Party

FILED: FREDERICK CIRCUIT CT
SEP 14 '22 AM 8:31 Sandra K. Dalton

MOTION, CONTINUED

STATEMENT OF FACTS:

The Defendant herein, Norris B. Ellis, is charged with the following offenses: First-Degree Rape, First-Degree Assault and Second-Degree Assault for a incident that occurred on July 4, 2021. The Defendant is currently in the custody of the Frederick County Adult Detention Center at 7300 Marcies Choice Lane, Frederick Maryland 21704 where the Defendant is awaiting trial.

The Defendant herein is respectfully seeking dismissal of the indictment in the above captioned case and all charged offenses therein be dismissed and cites the following grounds as reason for dismissal of indictment.

GROUND FOR DISMISSAL

1. CONFLICT OF INTEREST
2. OBSTRUCTION OF JUSTICE
3. PROSECUTORIAL MISCONDUCT
4. VIOLATION OF FUNDAMENTAL FAIRNESS
AND DUE PROCESS UNDER THE FOURTEENTH
AMENDMENT OF THE U.S. CONSTITUTION

September 12, 2022
Date

Norris B. Ellis
Signature of Party

MOTIO

MOTION, CONTINUED

GROUND 1, CONFLICT OF INTEREST:

1. The Frederick County police Department in the city of Frederick, Should not have been the investigating Department in the above Captioned Case, due to the fact that the alleged victim in the case was at the time of the accused offense, the wife of a police officer who is a member of the Frederick county police Force, which creates a direct and obvious conflict of interest. The aforementioned facts combined with the ongoing fact that the Frederick County police Department and the office of the States Attorney purposefully withheld this information, thereby subjecting the Defendant herein to bias and prejudicial treatment in the investigative and prosecutorial process.

2. The Defendant herein further asserts that the investigators were so over-zealous to invent a suspect to the point that they (investigators) fail to investigate whether an actual Sexual assault had really been committed as alleged by Ms. Popovich, the alleged victim. Investigators further fail to ascertain pertinent information with regard to Ms. Popovich' marital status as it relates to Ofc. Coty Campbell, her husband at the time of the accused offense for which the Defendant herein is charged.

September 12, 2022
Date

Morris B. Ellis
Signature of Party

MOTIO

MOTION, CONTINUED

GROUND: 1, CONFLICT OF INTEREST CONTINUED:

3. The Defendant herein further asserts that the investigators in the above captioned case did abandon their investigative objectivity once they (investigators), became aware that the alleged victim was the wife of a Frederick County police officer, (Coty Campbell), who is on the very same police force that is investigating and/or investigated the above captioned case of the Defendant herein, and to reiterate, it is a glaring and direct conflict of interest.

police officers are a very fraternally cohesive group (agency), and this fact can not be over-looked nor ignored, there are certainly issues with the case herein, which are indicative of the unpleasant stench of impropriety and/or misconduct such as cover-up. Ofc. Campbell, was assigned to the African-American community as a community liaison for police and community relations, just weeks shortly after the alleged sexual assault of his wife, Ms. Popovich, who also neglected to inform investigators that she in fact was the wife of (Ofc. Coty Campbell) of Frederick County police. However, irrespective of whether or not Ms. Popovich, divulged this information; police investigators were obligated to divulge the information that Ms. Popovich, was the wife of a Frederick County police officer, so as not to even give the appearance of...

September 12, 2022

Date

David B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND 1, Paragraph (3) CONFLICT OF INTEREST CON'T:

3. impropriety, conflict of interest and/or obstruction of Justice. Withholding of potentially exculpatory information in a criminal case greatly underscores the full disclosure rule encompassed in the "Brady-doctrine". The withholding of the information that the alleged victim in the above captioned case was the wife of a Frederick County police officer was an intentional and deliberate disregard for the truth and transparency by both the Frederick County States Attorneys office and the Frederick County police Dept., and thereby violates the constitutionally protected right of the Defendant herein, to fundamental fairness and Due process of law under the fourteenth-Amendment of the U.S. Constitution.

4. The Defendant herein further contends that the Frederick County police Department should not have been the agency to investigate this case. The above captioned case should have been turned over, another law enforcement agency and/or jurisdiction such as the Maryland State police, FBI, or other unbiased agency, so as to circumvent suspicion of any irregularity and/or contention of police misconduct. The Frederick County police Department has compromised the investigative integrity of the case herein and raises serious questions about the legitimacy and authenticity of any and all...

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Date

Nervis B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND 1, Paragraph (4) CONFLICT OF INTEREST CONT:

4.

evidence collected in this case, and the concern over the issue of evidence tampering, alteration and/or manipulation of collected evidence.

The Defendant herein asserts that ~~Due~~ process and ~~Fundamental fairness and the administration of~~ Justice has been derailed in the case of Defendant and due to the conflict of interest, has created an unfair disadvantage and prejudicial adjudicatory process. Moreover, the conflict of interest has brought about a complete aborting of the very meaning of fair and impartial adjudicatory proceeding.

GROUND (2) OBSTRUCTION OF JUSTICE:

5.

The Defendant herein contends that one of the lead investigators in the instant case did provide knowingly and intentionally false and misleading statements and information; Detective Sean McKinney, of the Frederick County Police Department did so knowingly and intentionally provide false and misleading information on more than one occasion as a persuasive means to deceitfully influence the obtaining of a warrant in an Application and — Affidavit for Search and Seizure warrants which were signed off by Circuit Court Judge Hon. — Julie Solt and Hon. Judge Scott Rolfe,...

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Narris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND: (2) OBSTRUCTION OF JUSTICE CONTINUED

6.

on July 11, 2021 at 11:06 A.M., for the Search and Seizure of the Defendant herein, Norris B. Ellis, his property and/or home. Detective McKinney in his "Application/Affidavit" Submitted as follows:

... "your Affiant reviewed a video from Home-Depot, that Showed the Suspect referred to by Detective Grigsby. your Affiant noted that the Shoes worn by the Suspect, Ellis, was similar to the Shoes observed in the Ring Video. The Suspect, identified as Ellis, is a registered Sex offender." PG. 7

The above quoted Statement by Detective McKinney is knowingly and intentionally false, the Defendant herein asserts that the Shoes that Detective McKinney observed in the Ring video, were what's commonly referred to as "Carolina Blue" "Baby-Blue" or "Sky Blue". The Shoes worn by this Defendant in the Home Depot video were primarily black, Black with white on the top at the front toe section, with absolutely no similarity to the Shoes worn by Defendant in the Ring video. Therefore, the statements made by Detective McKinney are knowingly and intentionally false and misleading and the said statements by Detective McKinney were not stated in good faith but rather stated with...

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Date

Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND: (2) OBSTRUCTION OF JUSTICE CONTINUED:

6. Deliberate intent to deceptively influence the Judge in issuing of the warrant that he, - Detective McKinney was Seeking.

7. Detective McKinney, by and through his own declarative statement on page 1, and 2, of his "Application/Affidavit For Search and Seizure Warrant" submitted to Hon. Judge Julie Solt, stated that he Detective McKinney "has over (27) years of experience as a police officer, and has had extensive training in conducting criminal investigations." Therefore, with such extensive training and so many years of experience (27); Detective McKinney's false and misleading statement to the Hon. Judge Julie Solt, that the Defendant herein Norris Ellis, is a "Registered Sex offender," which is not the truth. The statement by Detective McKinney is a knowingly and intentional, blatant disregard for truth. When anyone provides a false and misleading statement to a Hon. Judge, official of the court, it's not harmless, it (such deception), speaks to the ethical character and integrity of the person and/or individual attempts to falsely, with deliberate intent to deceive the court. Moreover, it's all the more irreprehensible when it's a 27 years of experience Detective...

September 12, 2022

Date

Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND: (2) OBSTRUCTION OF JUSTICE CONTINUED:

7. Who, based on years of extensive training as an investigator should understand fully the paramount importance of truth and integrity in and before a court of law, in the case herein Detective Sean McKinney, has by deliberate acts obstructed Justice in the pendency of a Judicial proceeding, which equates to an Administration of Justice. A grand Jury investigation is such a proceeding.

A States Attorney's investigation is directed toward the filing of either a Criminal information or the proposing of an indictment to a grand Jury and, it is therefore analogous to a grand Jury investigation, See: United States v. McComb, 744 F.2d 555, Also See: Pennington v. State, 308 Md. 727, 521 A.2d 1216 (1987) State v. Pagano, 655 A.2d 55 104 Md. App. 113.

Irvin v. State, 23 Md. App. 457, 328 A.2d 329 (1974)

State v. Pari 546 A.2d 175 180-81 (R.I. 1988)

Mayne v. State 414 A.2d 1, 45 Md. App. 483 (Md. App. 1980)

The Defendant herein contends that obstruction of Justice has been carried out by Detective Sean-McKinney, and the Defendant herein seeks that he, Detective McKinney be held accountable.

September 12, 2022

Date

Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND (3): PROSECUTORIAL MISCONDUCT:

1).

The Defendant herein, in the above captioned case raises the contention that States Attorney Tammy-M. Leache, representing the office of the States Attorney For Frederick County, Frederick Maryland, has engaged in deliberately undermining the legitimate administration of Justice in the above captioned case, by knowingly and intentionally withholding discovery material, potentially (exculpatory evidence) vital to the defense, by not being forth-with in the providing of numerous items expounded on in the discovery by investigators of the case herein, but not provided to the Defendants Defense Counsel.

2. States Attorney Ms. Leache, has been "Stone-walling" the Defense of the Defendant herein, by providing what is equivalent to "Scrap paper" such as a stack of papers that tells what time street camera's operated, and other miscellaneous and irrelevant papers which are obviously distractions and diversions intended to give the appearance of being in compliance with the discovery rule pursuant to - Rule 16, of Federal Rules of Criminal Procedure, However, truth of the matter is that States Attorney Ms. Leache, is knowingly and intentionally hindering and undermining the legitimate construction of the Defense of the Defendant in the above captioned case.

September 12, 2022

Date

Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND (3) PROSECUTORIAL MISCONDUCT CONTINUED:

3.

please, the Defendant herein respectfully request of the Honorable Court to review all of the enclosed labeled "exhibits" in support of the contentions raised in this Motion for Dismissal of Indictment, the "exhibits" are also intended to show the "good faith" efforts of the Defendants Defense Counsel, repeatedly requesting numerous items of potentially exculpatory discovery evidence, which are mentioned by the Frederick police investigators in the portions of Discovery Material that have been provided and identified by page and description.

4. The Defendant herein further contends that the office of the States Attorney, for Frederick County, specifically, States Attorney Leache, has not operated in "good faith" nor demonstrated the professional conduct of her office in relation to the duties of the prosecutor, to be fundamentally fair when it pertains to every facet and function of the office of "STATES ATTORNEY," not just in the disclosure of discovery material evidence. How is a Defendant to be able to prepare a defense of the charges against him if the States Attorneys office is permitted to intentionally/ knowingly withhold discovery material vital to the ...

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Date

Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND (3) PROSECUTORIAL MISCONDUCT CONTINUED:

4. Defendants defense preparation, the office of the States Attorney has not only been withholding discovery evidence, but has fail to provide reason or rationale as to why the requested discovery material has not been provided. Higher Courts hold that under Brady v. Maryland, "that a - prosecutors duty is to disclose of exculpatory evidence, includes an obligation to preserve such evidence from loss or destruction. otherwise, the disclosure duty would be an empty formality which could be easily circumvented by suppression of evidence by means of destruction rather than merely failure to reveal."

There are three (3) very important Key points of the Brady Doctrine, as they relate to the duties of prosecutors and they are as follows: (1) The - Brady Doctrine, on the theory that depriving a defendant of access to evidence that might establish his innocence is just as much a suppression as if the evidence existed and the prosecutor withheld it, (2) Fundamental fairness, which forbids a prosecutor from denying a defendant the means necessary to conduct an effective defense and to cross examine witnesses against him, (3) A reciprocal discovery rule, under which a Defendant ...

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Nervis B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND (3) PROSECUTORIAL MISCONDUCT CONTINUED:

4. Should be allowed the same opportunity to determine ~~the~~ probative value of prosecutions evidence against him as a prosecutor has in determining its inculpatory character.

The Defendant herein asserts that the above cited section of the 'Brady Doctrine', the prosecuting Attorney's obligations under this section extend to material and information in the possession or control of members of his or her staff and any others who have participated in the investigation or evaluation of the case, and who either regularly report or with reference to the particular case have reported to his or her office.

5. The Defendant herein would like to call the Courts attention to the case of Kyles v. Whitley, wherein, the Supreme Court stated that a prosecutors duty is to learn of any exculpatory evidence known to others acting on the governments behalf. A prosecutor "should know of evidence in the possession of police officers who are investigating the case, and other government agencies involved in the investigation."

September 12, 2022

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Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND (3) PROSECUTORIAL MISCONDUCT CONTINUED:

6. The Defendant herein further contends on the issue of "nondisclosure of evidence," where a Defendant show both willful misconduct and prejudice, dismissal of the indictment may be a proper remedy. Willful misconduct may be shown by a reckless disregard for a defendants constitutional rights, or a pattern of constitutional violations.

7. The defendant herein asserts that in the above captioned case States Attorney Tammy M. Leache, has shown both, willful misconduct and reckless disregard for the constitutionally protected right of the defendant and that there is an ongoing pattern of misconduct by the office of the States Attorney for Frederick County, Frederick - Maryland, that show a reckless disregard for the 14th Amendment of the U.S. Constitution, and the defendants right to fundamental fairness and due process in the pendency of an adjudicatory proceeding. When all of the factual evidence herein presented are reviewed by the Court and taken together in totality, it becomes very clear that prosecutorial misconduct has taken place in the case of the defendant in the instant case.

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Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND (3) PROSECUTORIAL MISCONDUCT CONTINUED:

8.

The Defendant herein further asserts that whenever a prosecutor willfully, with deliberate intent, engages in conduct that undermines and/or hinders the defense of a defendant by withholding or destroying of evidence, that is lawful grounds for Dismissal of an indictment.

Moreover, when a States Attorney conspires or contrives either by omission or commission to deny the fundamentally fair dispensation and application of due process in a Judicial proceeding, Such actions constitute prosecutorial misconduct, whenever the prosecutor takes the rights of the defendant away, merely for the objective of obtaining a conviction by a "Any means necessary approach," the equal Justice for all, is no longer a true reality for the defendant who has the egregious misfortune to be subjected to such an abuse of power by a States Attorney.

The Defendant contends herein that ground four (4) in this motion is encompassed in ground one 1, two 2, and three 3, and therefore need not be further expounded on, to avoid redundancy and usurping the Courts time.

September 12, 2022

Date

Norris B. Ellis

Signature of Party

MOTIO

MOTION, CONTINUED

GROUND (3) PROSECUTORIAL MISCONDUCT CONTINUED:

9. The Defendant herein, Norris B. Ellis, in the above captioned case do hereby respectfully request of this Honorable Court to Schedule a hearing to allow the defendant to be heard on all the grounds raised in this motion to determine the merits of the Defendants motion, in the interest of Justice and Fundamental fairness and Due process.

WHEREFORE, the Defendant herein respectfully asserts that obviously he is not a licensed practicing Attorney, and as a pro se litigant should not be held to the same standard of legal expertise. However, the Defendant herein recognizes that he is being subjected to bias and prejudicial treatment in the adjudicatory process, and furthermore is seeking Dismissal of the indictment, and further contends respectfully, that it would be a grave miscarriage of Justice to allow this case to proceed forward with such a blatant conflict of interest being at issue.

For all of the foregoing reasons the Defendant herein respectfully request Dismissal of indictment, and the Defendant be restored his liberty.

September 12, 2022

Date

Norris B. Ellis

Signature of Party

MOTIO